

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KATHERINE COX,

Plaintiff,

-against-

NATIONAL ACTION FINANCIAL SERVICES
INC.,

Defendant.

**VERIFIED COMPLAINT and DEMAND
FOR JURY TRIAL**

NOW COMES Plaintiff, Katherine Cox ("Plaintiff"), by and through her attorneys, Krohn & Moss, Ltd., for her Verified Complaint against Defendant, National Action Financial Services, Inc. ("Defendant"), alleges as follows:

Nature of the Action

1. This action is brought by Plaintiff pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* ("FDCPA").

Parties

2. Plaintiff is a natural person residing in Missoula, Missoula County, Montana.

3. Defendant is a New York company having its principal place of business located in Williamsville, Erie County, New York.

4. Defendant is a debt collector as defined by 15 U.S.C. § 1692a(6), and contacted Plaintiff in connection with the collection of a consumer debt.

5. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives and insurers.

Jurisdiction and Venue

6. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”

7. Because Defendant conducts business and is principally located in the state of New York, personal jurisdiction is established

8. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

9. Declaratory relief is available pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201 - 2202.

Factual Allegations

10. Defendant constantly and continuously places collection calls to Plaintiff in connection with the collection of a debt Plaintiff does not owe.

11. Upon information and belief, Defendant is attempting to collect a debt from “E&J Scholls” for a Blockbuster account.

12. Plaintiff attempted to contact Defendant to inform it that it has an incorrect telephone number, but every time Plaintiff makes an attempt her call is terminated by Defendant.

CLAIM FOR RELIEF

13. Defendant’s violations of the FDCPA include, but are not limited to, the following:

- a. Defendant violated §1692d of the FDCPA by engaging in conduct the natural consequence of which is to harass, oppress and/or abuse Plaintiff; and

b. Defendant violated §1692d(5) of the FDCPA by causing a telephone to ring repeatedly and continuously with the intent to annoy, abuse, and/or harass Plaintiff.

14. Plaintiff is entitled to her attorney's fees and costs incurred in this action.

15. This case presents an actual and justiciable controversy within the meaning of the Declaratory Judgment Act, 28 U.S.C. §§ 2201 - 2202.

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for the following:

(1) Declaratory judgment that Defendant's conduct violated the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq*;

(2) Actual damages

(3) Statutory damages pursuant to 15 U.S.C. § 1692k

(4) Reasonable attorneys' fees, costs pursuant to 15 U.S.C. § 1692k; and

(5) Awarding such other and further relief as may be just, proper and equitable.

Dated: November 24, 2009

KROHN & MOSS, LTD.

By: 

Adam T. Hill

KROHN & MOSS, LTD.

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Attorney for Plaintiff

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, Katherine Cox, hereby demands a jury trial in this matter.

VERIFICATION

STATE OF _____)

:ss :

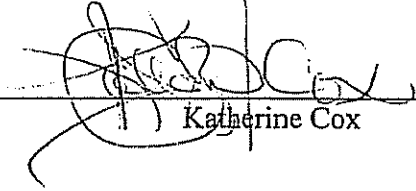
COUNTY OF _____)

Plaintiff, KATHERINE COX, being duly sworn, deposes and says:

1. I am the Plaintiff in this civil proceeding;
2. I have read the foregoing Verified Complaint prepared by my attorneys and I believe that all of the facts contained therein are true and correct, to the best of my knowledge, and formed after reasonable inquiry;
3. I belief that this civil Complaint is well ground in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law;
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it;
6. Each and every exhibit I have provided to my attorneys, which has/have been attached to this Complaint, is/are true and correct copy(s) of the original(s); and
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated the exhibit(s), except that some of the attached may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, KATHERINE COX, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Dated: 11/2/09



Katherine Cox